

**REMARKS/ARGUMENTS**

Claims 1-9 and 53-64 have been withdrawn. Claim 43 was amended. Claims 46 and 47 have been canceled. New claim 65 has been added and is dependent on claim 43. Claims 43-45, 48-52, and 65 are currently under consideration.

Claim 43 was amended to incorporate the limitations of claims 46 and 47, which are now canceled. In addition, claim 43 has been amended to recite that the substrate is a thermoforming plastic substrate. This is supported on page 16, lines 12-21, of the present application. In addition, claim 43 has been amended to recite the steps of placing the thermoforming plastic substrate on a platen and covering the dye carrier, thermoforming plastic substrate, and at least a portion of the platen with a membrane. This is supported on page 9, lines 8-15, of the application.

The Examiner rejected claims 43-52 under 35 U.S.C. 103(a) as being unpatentable over Haigh (U.S. Patent No. 4,059,471) in view of Meyer (U.S. Patent No. 4,997,507). Claim 43 has been amended to recite that the clamping pressure is provided by placing the thermoforming plastic substrate on a platen, covering at least a portion of the dye carrier, substrate, and at least a portion of the platen with a membrane, and applying a pressure differential across the membrane. The additional elements are not disclosed or made obvious by the cited references. For at least these reasons, claim 43, as amended, is not made obvious by Haigh in view of Meyer.

The Examiner provisionally rejected claims 43-46, 48, and 52 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11-18 of copending Application No. 10/084,262. The limitations of claim 47 and additional limitations have been incorporated into claim 43. For at least these reasons, claim 43, as amended is not obvious in view of claims 11-18 of copending Application No. 10/084,262.

The Examiner rejected claims 43-45, 47, and 49-52 under 35 U.S.C. 102(e) as being anticipated by Cheng et al. (U.S. Patent No. 6,344,103). Claim 43 has been amended to recite that the clamping pressure is provided by placing the thermoforming plastic substrate on a platen, covering at least a portion of the dye carrier, substrate, and at least a portion of the platen with a membrane, and applying a pressure differential across the membrane and in addition the limitations of claim 46, which has been canceled. The additional elements are not disclosed or made obvious by the cited references. In addition, the Examiner did not state that claim 46 was

Atty. Dkt. No. FSCOP001      Page 8 of 9      App. No. 09/823,290

anticipated by Cheng. For at least these reasons, claim 43, as amended, is not anticipated by Cheng.

Dependent claims 44-45 and 48-52 are also patentably distinct from the cited references for at least the same reasons as those recited above for the independent claim, upon which they ultimately depend. These dependent claims recite additional limitations that further distinguish these dependent claims from the cited references.

For example, claim 45 teaches a continuous pressure of at least 14 pounds per square inch. Since Meyer uses a partial vacuum to suck way air and/or vapor pockets (for a different purpose), it would not be obvious to combine the teaching of Haigh to provide a continuous pressure within the recited range. For at least these reasons, claims 44-45 and 48-52 are not unpatentable over the cited references.

New claim 65 is dependent on claim 43, and further recites that the platen is a perforated platen.

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at telephone number (650) 961-8300.

Respectfully submitted,  
BEYER WEAVER & THOMAS, LLP



Michael Lee  
Registration No. 31,846

P.O. Box 70250  
Oakland, CA 94612-0250  
Telephone: (650) 961-8300